

## **REMARKS**

### **Rejection of claims 1-22 under 35 U.S.C. §102(e) as being unpatentable over Johnson**

The Examiner rejected claims 1-22 under 35 U.S.C. §102(e) as being unpatentable over Johnson. In the rejection, the Examiner states that Johnson teaches the protocol recited in claim 1, citing col. 2 lines 26-43; col. 5, lines 42-67; and col. 6, lines 1-7 of Johnson. The Examiner further states that Johnson teaches the job recited in claim 1, citing col. 2, lines 26-43 and col. 6, lines 1-34 of Johnson. Applicant respectfully asserts that Johnson does not teach or suggest the protocol nor the job specified in claim 1, and furthermore expressly teaches away from these limitations.

Claim 1 includes the following limitation:

... a protocol residing in the memory that specifies at least one data message and at least one acknowledge (ACK) round that provides a time benchmark for determining whether or not a message has been received without using any timer; . . .

The language cited by the Examiner at col. 2 lines 34-40 of Johnson states:

A failure by the sender node to receive an ACK message from any of the nodes for whom the multicast message was intended within an allotted time period will prompt the sender to assume that the non-responding receiver node(s) did not, for whatever reason, receive the multicast message, and to begin sending point-to-point messages to such nodes.

The phrase “within an allotted time period” above shows that Johnson uses a timer. Col. 6 lines 38-41 of Johnson states: “The sender node 12 . . . will then set a timer and move to step 74 where it will wait for receipt of acknowledgments (ACKs) . . .” This language shows conclusively that Johnson uses a timer. The ACK round in claim 1 “provides a time benchmark for determining whether or not a message has been received without

using any timer”. Because Johnson expressly teaches the use of a timer, Johnson cannot read on the protocol recited in claim 1.

Claim 1 also includes the following limitation:

a job residing in the memory and executed by the at least one processor, the job processing the protocol, wherein the job functions according to receiver logic that uses the at least one ACK round to determine without using any timer whether the at least one data message has been received.

In rejecting the job recited in claim 1, the Examiner states that the messages are sent based on a date of birth, citing certain parts of Johnson. This language in the rejection shows a mismatch between the Examiner’s logic and the claim limitation. The job recited in claim 1 functions according to *receiver logic* that uses at least one ACK round to determine without using any timer whether the at least one data message has been received. To state that the messages are sent based on date of birth shows the Examiner is considering the sender logic, not the receiver logic as recited in the claim.

The receiver logic in claim 1 “uses the at least one ACK round to determine without using any timer whether the at least one data message has been received.” The logic in Johnson, in contrast, uses a timer. Col. 6 lines 38-41 of Johnson states: “The sender node 12 . . . will then set a timer and move to step 74 where it will wait for receipt of acknowledgments (ACKs) . . .” This language shows conclusively that Johnson uses a timer. The receiver logic in claim 1 uses the at least one ACK round to determine *without using any timer* whether the at least one data message has been received. Because Johnson uses a timer, and the limitations in claim 1 expressly recite “without using any timer”, Johnson does not anticipate claim 1.

Each of the other independent claims, namely claims 6, 11 and 16, each recite “without using any timer”. Because Johnson uses a timer, each of claims 6, 11 and 16 are

allowable over Johnson. In addition, each of claims 2-5, 7-10, 12-15, and 17-22 depend on one of the independent claims that are allowable for the reasons given above. As a result, claims 2-5, 7-10, 12-15, and 17-22 are allowable as depending on allowable independent claims. Applicant respectfully requests reconsideration of the Examiner's rejection of claims 1-22 under 35 U.S.C. §102(e).

Conclusion

In summary, none of the cited art, either alone or in combination, teach, support, or suggest the unique combination of features in applicant's claims presently on file. Therefore, applicant respectfully asserts that all of applicant's claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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